

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEREK HARTFORD,

Defendant.

4:21-CR-3037

ORDER

This matter is before the Court on the defendant's motion to return \$5,144¹ that was seized from him at the time of his arrest by deputies of the Clay County Sheriff's Office. [Filing 114](#). The government has responded to the defendant's motion, stating that the requested property is in the custody of the Clay County Sheriff's Office, but that the government does not oppose the defendant's motion.² See [filing 116](#).

Indeed, the government has helpfully contacted the Clay County Attorney, who has advised that her office doesn't oppose release of the property either, and who has directed the Clay County Sheriff's Office to make arrangements to release the funds to the defendant at his request. The

¹ The defendant only asked for the \$5,080 found in his vehicle, see [filing 114 at 1](#), but apparently forgot about the \$64 in his wallet, see [filing 116 at 1](#).

² The government and the Court both note that the United States cannot return property that it does not have. [United States v. White](#), 718 F.2d 260, 261 (8th Cir. 1983). Accordingly, while the Court is granting the defendant's motion in order to (hopefully) expedite the return of his property, the defendant is advised that if he is unable to get his property back from Clay County authorities for some reason, he will have to take that up with them, not the United States.

defendant—or an authorized agent of the defendant, such as his lawyer, girlfriend, or family member—should contact the Clay County Sheriff's Office, which can provide more information about how transfer of the property can be accomplished.


IT IS ORDERED:

1. The defendant's motion to return property ([filing 114](#)) is granted as set forth above.
2. The Clerk of the Court is directed to mail a certified copy of this order to:

Clay County Sheriff's Office
P.O. Box 186
104 E Edgar St
Clay Center, NE 68933

Dated this 3rd day of February, 2022.

BY THE COURT:



John M. Gerrard
United States District Judge